

OVERSIGHT BOARD AGENDA STAFF REPORT

TO: Honorable Chair and Members of the Oversight Board

FROM: Michael Huntley, Staff liaison from the Successor Agency to the former City of Montebello Community Redevelopment Agency

SUBJECT: Cooperative Agreement for Advance and Reimbursement of Administrative, Overhead and other Expenses

DATE: August 15, 2012

REQUEST FOR APPROVAL

The Successor Agency requests the Oversight Board's approval of its agreement with the City of Montebello (the "City") whereby the City advances to the Successor Agency the staff, facilities, and other resources necessary for the Successor Agency to wind down the affairs of the former Redevelopment Agency ("Agency") and otherwise perform its duties under the law. The agreement, entitled "Cooperative Agreement for Advance and Reimbursement of Administrative, Overhead and other Expenses" (hereafter, the "Cooperative Agreement") will enable the Successor Agency to obtain the resources necessary to conduct its affairs.

The Cooperative Agreement is attached to this Staff Report as ATTACHMENT 1.

A draft Resolution providing for the Oversight Board's approval of the Cooperative Agreement is attached to this Staff Report as ATTACHMENT 2.

LEGAL AUTHORITY

The requested action is permitted pursuant to the following Sections of the Health & Safety Code (enacted pursuant to ABx1 26 and AB 1484):

- Section 34171(d)(1)(F) authorizes the Successor Agency to enter into contracts or agreements necessary for the administration or operation of the Successor Agency are enforceable obligations.
- Section 34173(h) authorizes the City to loan or grant funds to the Successor Agency for administrative costs, enforceable obligations, or project-related expenses at the City's discretion.
- Section 34177.3(b) authorizes the Successor Agency to create enforceable obligations to conduct the work of winding down the Agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance.

- Sections 34178(a) and 34180(h) permit the Successor Agency to enter into agreements with the City, subject to approval by the Oversight Board

BACKGROUND

Under ABx1 26 and subsequent authorities, Successor Agencies are mandated to undertake a number of actions pursuant to Health & Safety Code Section 34170, *et seq.*, including winding down the affairs of the former Agency. Undertaking such actions requires the devotion of City staff time, City facilities, and other City resources, all of which are required in order for the Successor Agency to properly fulfill its legal mandates.

To memorialize these obligations, cities have been considering entering into “Cooperative Agreements” with their counterpart successor agencies. The Cooperative Agreements provide the terms by which a city will advance staff time, facilities, and other resources to its counterpart successor agency in exchange for future reimbursement by the successor agency. Such agreements are authorized pursuant to Health & Safety Code Section 34171(d)(1)(F), which characterizes as “enforceable obligations” agreements necessary for the administration or operation of the successor agency (subject to oversight board approval). Additionally, Health & Safety Code §§ 34173(h) and 34177.3(b) newly enacted under AB 1484, provide further authority to enter into a Cooperative Agreement.

If approved, the Cooperative Agreement will enable the Successor Agency to utilize City staff, facilities and other resources for the conduct of its business. In exchange, the costs for such items will be presented for reimbursement from future Successor Agency funds. As such, these costs will be listed on future ROPS such that they be characterized as enforceable obligations. The Oversight Board will retain authority to approve or reject these costs in conjunction with review of such future ROPS.

Notably, the Cooperative Agreement will not only enable the Successor Agency, itself, to function, but will likewise benefit the Oversight Board since the Successor Agency provides the Oversight Board with staff and resources necessary for its function. Without a mechanism in place to fund these obligations, the Successor Agency may be unable to provide the Oversight Board with these resources. The Cooperative Agreement will enable the Successor Agency to provide the Oversight Board with these resources and ensure efficient winding-down of the former Agency.

The City and Successor Agency entered into the Cooperative Agreement on June 27, 2012, pursuant to approvals given by both the City Council and the Successor Agency Board at the City Council and Agency Board meetings held that date. A copy of the approved and executed Cooperative Agreement is attached as ATTACHMENT 1 to this Staff Report.

To be binding, Cooperative Agreements must also be approved by a successor agency’s oversight board, and must be approved as an “enforceable obligation” for the successor agency. Therefore, the Oversight Board’s approval of the Cooperative Agreement is required and, if so approved, the Cooperative Agreement must likewise be approved in the ROPS.

RECOMMENDATION

The Successor Agency recommends that the Oversight Board adopt the draft Resolution attached to this Staff Report as ATTACHMENT 2, thereby approving the Cooperative Agreement and authorizing the contractual and legal mechanism for Successor Agency to utilize the staff, facilities and other resources necessary to undertake its obligations of winding down the Agency and providing necessary resources to the Oversight Board.

ATTACHMENTS

1. Cooperative Agreement
2. Resolution

CITY OF MONTEBELLO

AGREEMENT NO. 2762

**COOPERATIVE AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF
ADMINISTRATIVE, OVERHEAD AND OTHER EXPENSES**

This COOPERATIVE AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE, OVERHEAD AND OTHER EXPENSES (this "Agreement") is entered into as of July 5, 2012, by and between the City of Montebello the "City") and the Successor Agency to the former Redevelopment Agency of the City of Montebello (the "Successor Agency")

RECITALS

WHEREAS, the Successor Agency is required to undertake a number of actions pursuant to Part 1 85 of the Community Redevelopment Law (commencing with Health and Safety Code Section 34170) ("Part 1 85"), including winding down the affairs of the former Montebello Redevelopment Agency ("Agency") pursuant to Health and Safety Code Section 34177(h),

WHEREAS, pursuant to Health and Safety Code Section 34171(d)(1)(F), contracts or agreements necessary for the administration or operation of the Successor Agency are enforceable obligations,

WHEREAS, pursuant to Health and Safety Code Sections 34178(a) and 34180(h), with the approval of the oversight board, the Successor Agency may enter into agreements with the City;

WHEREAS, in connection with the administration and operations of the Successor Agency, the Successor Agency is and will be utilizing the staff, facilities, and other resources of the City;

WHEREAS, the City Administrator, City Clerk, Finance Director, Director of Planning & Community Development, City Attorney, and the City's departments of administration, finance, and other City departments devote and are expected to devote substantial time with respect to the administration and operations of the Successor Agency and Oversight Committee, including gathering information relating to the Agency's enforceable obligations, conferring with public officials representing governmental agencies, and undertaking other activities in connection with winding down the affairs of the Agency;

WHEREAS, by providing and making available to the Successor Agency the staff, facilities, services, and other resources of the City, including, without limitation, consultants, legal counsel, office space, equipment, supplies, and insurance, necessary to the administration and operations of the Successor Agency, the City has advanced and will continue to advance the cost of the foregoing to the Successor Agency;

WHEREAS, the City and the Successor Agency desire to enter into this Agreement to acknowledge the foregoing recitals and to provide for an appropriate method of reimbursement of such advances by the City to the Successor Agency; and

WHEREAS, the City and Successor Agency recognize that the Oversight Committee may require independent legal counsel and or technical advisors.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE PARTIES DO HEREBY AGREE AS FOLLOWS

Section 1. The City shall make available to the Successor Agency its staff, facilities, services, and other resources, including, without limitation, consultants, legal counsel, office space, equipment, supplies, and insurance, necessary to the administration and operations of the Successor Agency and the Oversight Committee. The Successor Agency shall have access to the foregoing staff, facilities, services, and other resources of the City

Section 2. The value of the City staff, including all employee retirement and other benefits, facilities, services, and other resources of the City, including, without limitation, office space, equipment, supplies, and insurance, necessary to the administration and operations of the Successor Agency made, and to be made, available to the Successor Agency for each six-month fiscal period retroactive to the fiscal period commencing on January 1, 2012 and ending on June 30, 2012, and for each subsequent six-month fiscal period, determined in accordance with Section 3 hereof; shall constitute an advance to the Successor Agency by the City for each six-month fiscal period, to be repaid in accordance with Section 4 of this Agreement.

Section 3. The City Administrator shall prepare a "Cost Accounting Plan" based upon reasonable allocations and generally accepted cost accounting principles, documenting the value of the City staff, including all employee retirement and other benefits, and the facilities, services, and other resources of the City made, or to be made available, to the Successor Agency pursuant to Section 1 hereof for each six-month fiscal period retroactive to the fiscal period commencing on January 1, 2012 and ending on

June 30, 2012, and for each subsequent six-month fiscal period. For each six month fiscal period, or such other times as the City Administrator deems appropriate, the City Administrator shall review the Cost Accounting Plan for its accuracy in reflecting the value of City staff and resources advanced to the Successor Agency.

Section 4. Within a reasonable time following the end of each six month fiscal period, retroactive to the fiscal period commencing on January 1, 2012 and ending on June 30, 2012, and for each subsequent six-month fiscal period, the Successor Agency shall pay the City up to the amount of the reimbursement set forth in the Cost Accounting Plan from available funds of the Successor Agency. Available funds of the Successor Agency shall include its "administrative cost allowance", as that term is defined in Health and Safety Code Section 34171(b) and other funds lawfully available to the Successor Agency under Part 1 85 to pay to the City the amount of the reimbursement. The City shall bear the cost of any amount of the reimbursement that exceeds the administrative cost allowance and other funds lawfully available to the Successor Agency under Part 1 85.

Section 5. The parties hereto agree to take all appropriate steps and execute any documents which may reasonably be necessary or convenient to implement the intent of this Agreement.

Section 6. Each party shall maintain books and records regarding its duties pursuant to this Agreement. Such books and records shall be available for inspection by the officers and agents of the other party at all reasonable times.

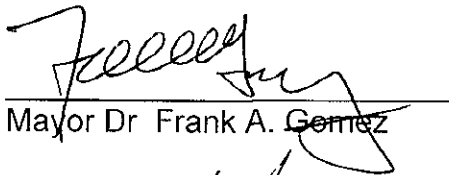
Section 7. This Agreement is made in the State of California under the Constitution and laws of the State of California, and is to be so construed.

Section 8. This Agreement will be become effective upon approval of the Oversight Board to the Successor Agency

Section 9. This Agreement may be amended at any time, and from time to time, by an agreement executed by both parties to this Agreement and approved by the Oversight Board to the Successor Agency

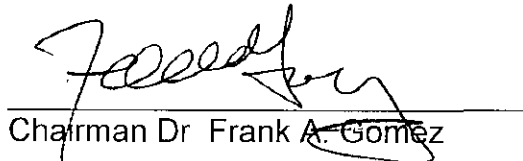
IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates written below

CITY OF MONTEBELLO


Mayor Dr. Frank A. Gomez

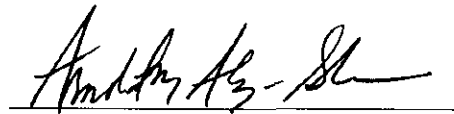
Date 7/5/2012

SUCCESSOR AGENCY TO THE CITY OF MONTEBELLO

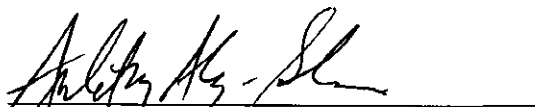

Chairman Dr. Frank A. Gomez

Date 7/5/2012

APPROVED AS TO FORM


Arnold M. Alvarez-Glasman,
City Attorney

APPROVED AS TO FORM


Arnold M. Alvarez-Glasman,
Board Counsel

ATTEST


Daniel Hernandez, City Clerk

ATTEST


Daniel Hernandez, Board Secretary



